

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**AUGUSTINO SMITH,**

**Petitioner**

**v.**

**LORETTA E. LYNCH, *et al.*,**

**Respondents**

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**CIVIL NO. 3:CV-16-01502**

**(Judge Caputo)**

**M E M O R A N D U M**

**THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:**

On July 20, 2015, Mr. Smith, a native and citizen of Jamaica, who is being held in the custody of the Bureau of Immigration and Customs Enforcement (ICE), filed a petition for writ of habeas corpus claiming he has been detained for longer than a reasonable period of time without a bond hearing under 8 U.S.C. § 1226. Initially, the Court directed a response to the Petition. However, when Mr. Smith sought preliminary injunction noting that he had not received a single detention review during his entire period of detention, the Court directed ICE treat his petition as a request for custody review and dismissed the matter without prejudice. (ECF No. 15.)

On October 19, 2016, Mr. Smith filed a motion for preliminary injunction seeking reopening of his habeas petition following the Court ordered review by BIA which continued his detention. (ECF No. 20.) He also cites to numerous other recent activities relative to the status of his order of removal, including the United States Court of Appeals, Third Circuit's decision to stay his order of removal . (ECF No. 20-1.)

The extraordinary relief of preliminary injunction is an improper means to reopen this matter. See Federal Rule of Civil Procedure 65. In this matter, the Court granted Mr. Smith the relief he sought via his Petition, an individualized custody review. ICE conducted the review on September 27, 2016 and determined to continue his detention. (ECF No. 20-2, p. 7.) To the extent Mr. Smith now seeks the Court to evaluate ICE's recent determination, he may file a habeas petition (in a new case). See *Zayas v. INS*, 311 F.3d 247, 255 (3d Cir. 2002).

An appropriate Order follows.

/s/ A. Richard Caputo  
**A. RICHARD CAPUTO**  
**United States District Judge**

**Date: October 25, 2016**